

## § 97.1

## 7 CFR Ch. I (1–1–16 Edition)

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AUTHORITY: Plant Variety Protection Act, as amended, 7 U.S.C. 2321 *et seq.*

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### SCOPE

#### § 97.1 General.

Certificates of protection are issued by the Plant Variety Protection office

## Agricultural Marketing Service, USDA

## § 97.2

for new, distinct, uniform, and stable varieties of sexually reproduced or tuber propagated plants. Each certificate of plant variety protection certifies that the breeder has the right, during the term of the protection, to prevent others from selling the variety, offering it for sale, reproducing it, importing or exporting it, conditioning it, stocking it, or using it in producing a hybrid or different variety from it, as provided by the Act.

[58 FR 42435, Aug. 9, 1993, as amended at 60 FR 17189, Apr. 4, 1995]

### DEFINITIONS

#### § 97.2 Meaning of words.

Words used in the regulations in this part in the singular form will import the plural, and vice versa, as the case may demand. The definitions of terms contained in the Act shall apply to such terms when used in this part. As used throughout the regulations in this part, unless the context requires otherwise, the following terms will be construed to mean:

*Abandoned application.* An application which has not been pursued to completion within the time allowed by the Office or has been voluntarily abandoned.

*Act.* The Plant Variety Protection Act (7 U.S.C. 2321 *et seq.*).

*Administrator.* The Administrator of the Agricultural Marketing Service of the U.S. Department of Agriculture, or any other officer or employee of the Department of Agriculture to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his or her stead.

*Applicant.* The person who applied for a certificate of plant variety protection.

*Application.* An application for plant variety protection under the Act.

*Assignee.* A person to whom an owner assigns his/her rights in whole or in part.

*Board.* The Plant Variety Protection Board appointed by the Secretary.

*Certificate.* A certificate of plant variety protection issued under the Act by the Office.

*Certified seed.* Seed which has been determined by an official seed certifying agency to conform to standards of ge-

netic purity and identity as to variety, which standards have been approved by the Secretary.

*Commissioner.* The Examiner in Chief of the Office.

*Decision and order.* Includes the Secretary's findings of fact; conclusions with respect to all material issues of fact and law, as well as the reasons or basis therefor; and order.

*Examiner.* An employee of the Plant Variety Protection Office who determines whether a certificate is entitled to be issued. The term shall, in all cases, include the Commissioner.

*Foreign application.* An application for plant variety protection filed in a foreign country.

*Hearing Clerk.* The Hearing Clerk, U.S. Department of Agriculture, Washington, DC.

*Hearing Officer.* An Administrative Law Judge, U.S. Department of Agriculture, or other officer or employee of the Department of Agriculture, duly assigned to preside at a hearing held pursuant to the rules of this part.

*Office or Plant Variety Protection Office.* The Plant Variety Protection Office, Science and Technology Programs, AMS, USDA.

*Official Journal.* The "Official Journal of the Plant Variety Protection Office."

*Owner.* A breeder who developed or discovered and developed a variety for which plant variety protection may be applied for under the Act, or a person to whom the rights to such variety have been assigned or transferred.

*Person.* An individual, partnership, corporation, association, government agency, or other business or governmental entity.

*Secretary.* The Secretary of Agriculture of the United States or any other officer or employee of the U.S. Department of Agriculture, to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated to act in his or her stead.

*Seed certifying agency.* It shall be defined as set forth in the Federal Seed Act (53 Stat. 1275).

*Sale for other than seed purposes.* The transfer of title to and possession of the seed by the owner to a grower or other person, for reproduction for the